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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,917	01/16/2001	Mohamed M. Haq	069089.0102	4854
7590	12/29/2005		EXAMINER	
Howard L. Speight Baker Botts L.L.P. 910 Louisiana Houston, TX 77002			NAJARIAN, LENA	
			ART UNIT	PAPER NUMBER
			3626	
DATE MAILED: 12/29/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/760,917	HAQ, MOHAMED M.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Lena Najarian	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 October 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 and 18-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-15 and 18-38 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

**DETAILED ACTION**

***Notice to Applicant***

1. This communication is in response to the amendment filed 10/7/05. Claims 1-15 and 18-38 are pending. Claims 1, 4, 9, 11, 14, and 33 have been amended. Claims 16 and 17 are cancelled.

***Drawings***

2. The objection to the drawings is hereby withdrawn due to the amendment filed 10/7/05.

***Specification***

3. The objection to the abstract is hereby withdrawn due to the amendment filed 10/7/05.

***Claim Rejections - 35 USC § 112***

4. The rejection of claims 4-5, 9-11, and 14 under 35 U.S.C. 112, second paragraph, is hereby withdrawn due to the amendment filed 10/7/05.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-8, 14-15, 18, 20-21, 24, 27, and 29-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leet (6,000,828) in view of Vonk et al. (US 2002/0072933 A1).

(A) Claim 1 has been amended to now recite a “fifth means for processing data through which the patient may retrieve via the Internet data regarding the patient, the diagnosis regarding the patient, and the treatment plan for the patient from the first means for processing data.”

Leet does not disclose a fifth means for processing data through which the patient may retrieve via the Internet data regarding the patient, the diagnosis regarding the patient, and the treatment plan for the patient from the first means for processing data.

Vonk discloses means for processing data through which the patient may retrieve via the Internet data regarding the patient, the diagnosis regarding the patient, and the treatment plan for the patient (para. 30 of Vonk).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Vonk within Leet. The motivation for doing so would have been to enable the patients to add and retrieve information via their workstation (para. 30 of Vonk).

The remainder of claim 1 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(B) The amendments to claims 4 and 14 were apparently made to overcome 112, 2<sup>nd</sup> paragraph issues set forth in the prior Office Action. However, these changes do not affect the scope and breadth of the claims as originally presented and/or in the manner in which the claims were interpreted by the Examiner when applying prior art within the previous Office Action. As such, these claims are rejected under the same rationale given in the prior Office Action, and incorporated herein.

(C) Claim 33 has been amended to now recite "storing the patient data, diagnosis, and treatment plan on the data storage media; allowing the patient to access via the Internet the patient data, diagnosis, and treatment plan on the data storage media."

Leet discloses storing data on the data storage media (Fig. 1, col. 5, lines 30-47, col. 4, lines 22-42, and col. 3, lines 26-40 of Leet).

Leet does not disclose allowing the patient to access via the Internet the patient data, diagnosis, and treatment plan on the data storage media.

Vonk discloses allowing the patient to access via the Internet the patient data, diagnosis, and treatment plan (para. 30 of Vonk).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Vonk within Leet. The motivation for doing so would have been to enable the patients to add and retrieve information via their workstation (para. 30 of Vonk).

The remainder of claim 33 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(D) Claims 2-3, 5-8, 15, 18, 20-21, 24, 27, 29-32, and 34-37 have not been amended and are rejected for the same reasons given in the previous Office Action, and incorporated herein.

7. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leet (6,000,828) in view of Vonk et al. (US 2002/0072933 A1) as applied to claim 1, and further in view of Portwood et al. (5,950,630).

(A) The amendment to claim 9 was apparently made to overcome 112, 2<sup>nd</sup> paragraph issues set forth in the prior Office Action. However, these changes do not affect the scope and breadth of the claim as originally presented and/or in the manner in which the claim was interpreted by the Examiner when applying prior art within the previous Office Action. As such, this claim is rejected under the same rationale given in the prior Office Action, and incorporated herein.

(B) Claim 10 has not been amended is rejected for the same reasons given in the previous Office Action, and incorporated herein.

8. Claims 11-13, 22, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leet (6,000,828) in view of Vonk et al. (US 2002/0072933 A1) as applied to claims 1, 18, 21, 33-34, and 37, and further in view of Evans (5,924,074).

(A) The amendment to claim 11 was apparently made to overcome 112, 2<sup>nd</sup> paragraph issues set forth in the prior Office Action. However, these changes do not affect the scope and breadth of the claim as originally presented and/or in the manner in which

the claim was interpreted by the Examiner when applying prior art within the previous Office Action. As such, this claim is rejected under the same rationale given in the prior Office Action, and incorporated herein.

(B) Claims 12, 13, 22, and 38 have not been amended and are rejected for the same reasons given in the previous Office Action, and incorporated herein.

9. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leet (6,000,828) in view of Vonk et al. (US 2002/0072933 A1) as applied to claims 1 and 18, and further in view of Barry et al. (6,081,786).

(A) Claim 23 has not been amended and is rejected for the same reasons given in the previous Office Action, and incorporated herein.

10. Claims 19 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leet (6,000,828) in view of Vonk et al. (US 2002/0072933 A1) as applied to claims 1, 18, 24, and 27, and further in view of Hohnloser (US 2003/0065241 A1).

(A) Claims 19 and 28 have not been amended and are rejected for the same reasons given in the previous Office Action, and incorporated herein.

11. Claims 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leet (6,000,828) in view of Vonk et al. (US 2002/0072933 A1) as applied to claims 1, 18, and 24, and further in view of Brown (US 6,440,068 B1).

(A) Claims 25-26 have not been amended and are rejected for the same reasons given in the previous Office Action, and incorporated herein.

***Response to Arguments***

12. Applicant's arguments with respect to claims 1 and 33 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches an electronic patient healthcare system and method (US 2002/0082865 A1).

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is 571-272-7072. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Ln*  
In  
12-14-05

*Joseph Thomas*  
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